

# The Vermont Statutes Online

## Title 33: Human Services

### *Chapter 7: Office of Alcohol and Drug Abuse*

#### **708. Treatment and services**

##### **§ 708. Treatment and services**

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 702 of this title, the officer may assist him or her, if he or she consents, to his or her home, an approved substance abuse treatment program, or some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 702 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved substance abuse treatment program with detoxification capabilities, or to the emergency room of a licensed general hospital for treatment, except that if a substance abuse crisis team or a designated substance abuse counselor exists in the vicinity and is available, the person may be released to the team or counselor at any location mutually agreeable between the officer and the treator. The period of protective custody shall end when the person is released to a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general

hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person is taken to an approved substance abuse treatment program with detoxification capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

Subsection (d) effective until July 1, 2011; see also subsection (d) set out below.

(d) A person judged by a law enforcement officer to be incapacitated, and who has not been charged with a crime, may be lodged in protective custody in a lockup or community correctional center for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) The person refuses to be transported to an appropriate facility for treatment, or if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) No approved substance abuse treatment program with detoxification capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

Subsection (d) effective July 1, 2011; see also subsection (d) set out above.

(d) A person judged by a law enforcement officer to be incapacitated, and who has not been charged with a crime, may be lodged in protective custody in a secure facility not operated by the department of corrections for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) The person refuses to be transported to an appropriate facility for treatment, or if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) No approved substance abuse treatment program with detoxification capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

Subsection (e) effective until July 1, 2011; see also subsection (e) set out below.

(e) No person shall be lodged in a lockup or community correctional center under subsection (d) of this section without first being evaluated by a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room and found to be indeed incapacitated.

Subsection (e) effective July 1, 2011; see also subsection (e) set out above.

(e) No person shall be lodged in a secure facility under subsection (d) of this section without first being evaluated by a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities or a professional medical staff person at a licensed general hospital emergency room and found to be indeed incapacitated.

Subsection (f) effective until July 1, 2011; see also subsection (f) set out below.

(f) No lockup or community correctional center shall refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

Subsection (f) effective July 1, 2011; see also subsection (f) set out above.

(f) A lockup not operated by the department of corrections shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be held at a lockup or community correctional center. If needed treatment is not readily available the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of chapter 55 of this title. The official in charge of an adult jail or lockup shall notify the director of the office of drug and alcohol abuse of any person under the age of 18 brought to an adult jail or lockup pursuant to this chapter.

Subsection (h) effective until July 1, 2011; see also subsection (h) set out below.

(h) If an incapacitated person in protective custody is lodged in a lockup or community correctional center, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

Subsection (h) effective July 1, 2011; see also subsection (h) set out above.

(h) If an incapacitated person in protective custody is lodged in a secure facility, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

(i) A taking into protective custody under this section is not an arrest.

Subsection (j) effective until July 1, 2011; see also subsection (j) set out below.

(j) Law enforcement officers or persons responsible for supervision in a lockup or community correctional center or members of a substance abuse crisis team or designated substance abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury.

Subsection (j) effective July 1, 2011; see also subsection (j) set out above.

(j) Law enforcement officers, persons responsible for supervision in a secure facility, members of a substance abuse crisis team or, and designated substance abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury. (Added 1977, No. 208 (Adj. Sess.), § 1; amended 1987, No. 182 (Adj. Sess.), § 2; 2001, No. 146 (Adj. Sess.), § 6, eff. June 21, 2002; 2007, No. 179 (Adj. Sess.), § 11, eff. July 1, 2011.)